

ORIGINAL

K R A S K I N, L E S S E & C O S S O N, L L P  
ATTORNEYS AT LAW  
TELECOMMUNICATIONS MANAGEMENT CONSULTANTS

2120 L Street, N.W., Suite 520  
Washington, D.C. 20037

Telephone (202) 296-8890  
Telecopier (202) 296-8893

December 7, 2000

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

EX PARTE OR LATE FILED

RECEIVED

DEC 7 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Request for Emergency Relief of the Rural Independent Competitive Alliance  
Enjoining AT&T Corp. From Discontinuing Service Pending Final Decision  
CC Docket No. 96-262  
Ex Parte Meeting

Dear Ms. Salas:

On December 6, 2000, Gerry Anderson, President of the Rural Independent Competitive Alliance ("RICA") and Stephen Kraskin, Sylvia Lesse and John Kuykendall of Kraskin, Lesse & Cosson, LLP met with Dorothy Atwood, Jeffrey Dygert, Scott Bergmann and Jack Zinman of the Common Carrier Bureau to discuss RICA's Request for Emergency Relief which was placed on Public Notice for comment on May 15, 2000 ("Emergency Petition"). The comment period ended on June 29, 2000.

The discussion included informing the Commission of RICA's concern that the Emergency Petition which was filed in February, has not yet been acted upon by the Commission and that the Commission's delay perpetuates the harm that was referenced in the petition as well as discouraging competition in rural markets. The discussion also included a recently released survey of RICA members and a brochure of Mid-Rivers Telephone Cooperative, Inc. (see attached) to demonstrate the value that rural CLECs bring to the marketplace and to further emphasize the need for the Commission to act promptly on the Emergency Petition.

Please contact me if there are any questions regarding this matter.

Sincerely yours,

  
John Kuykendall

cc: Dorothy Atwood  
Jeffrey Dygert  
Jack Zinman  
Scott Bergmann

No. of Copies rec'd 0+2  
List ABCDE

K R A S K I N, L E S S E & C O S S O N, L L P  
ATTORNEYS AT LAW  
TELECOMMUNICATIONS MANAGEMENT CONSULTANTS

2120 L Street, N.W., Suite 520  
Washington, D.C. 20037

Telephone (202) 296-8890  
Telecopier (202) 296-8893

**Rural Independent Competitive Alliance**  
**Survey Report**

The following are findings from a survey of members of the Rural Independent Competitive Alliance ("RICA") conducted during the month of September 2000.

- The twenty-three RICA members that responded to the survey serve 27,923 residential and 11,957 business access lines. On average, respondents serve 1,551 residential and 664 business lines.
- Seventy-six percent of respondents state that their local business or residential rates are lower than the incumbent. Fourteen percent report the same rates and ten percent report higher rates than the incumbent.
- Sixty percent of the respondents are experiencing situations in which long distance carriers have refused service to their rural CLEC customers.
- Forty percent of the respondents had brought Caller ID to rural markets for the first time; thirty-five percent had brought other calling features; sixty-five percent had brought voice mail; seventeen percent had brought video programming; eighty-three percent had brought DSL; and thirty-five percent had brought cable modems.
- Respondents report that they are using the following technologies to deliver services to rural CLEC markets: coax (30.5%); copper (96%); fiber (91%); hybrid fiber coax (13%); wireless (17%).
- On average, the 23 respondents have made capital investments of \$6.6 million in their CLEC areas and have spent over \$140 million to improve service in rural America.
- The survey revealed that an average of 9.5 new jobs are created with an average of 13.73 positions projected in a year and that 73 percent of the members responding have opened a local customer service office in the markets they are serving.
- The average penetration rate for the respondents is 53.81 percent with the seven respondents who have been in business for more than 3 years reporting an average penetration rate of 72.14 percent.

# **Rural Independent Competitive Alliance**

## **Survey Report**

### **Survey Overview**

This report presents findings from a survey of RICA CLEC members conducted during September 2000. 23 companies responded. The purpose of the study was to provide:

- An understanding of the positive impacts RICA member companies are having on the communications needs of the rural communities they serve.
- A picture of the operational methods and investment levels made by these companies.
- A gauge of the success rural CLECs are experiencing.

While anecdotally there is an understanding that rural CLECs have had a significant positive impact on rural communities, this is the first study that provides qualitative insights on this market segment. Although this survey was brief, future RICA member surveys can explore rural CLEC issues in more depth.

The survey instrument used was developed by individuals on the RICA board with input from the RICA marketing committee.

### **Bringing Competition To Rural Markets**

In the early 1900's, independent telephone companies were formed to bring telephone service to communities that were not being served by existing providers. Likewise, whereas the 1996 Telecom Act has fostered competition in large markets, rural Independents formed CLEC operations to bring new options to rural communities that would be without choice today. The number and percentage of markets served by these 23 reflects this fact:

<b>Population</b>	<b>Number of Markets</b>	<b>Percentage</b>
More than 10,000	20	27.4%
5,001 to 10,000	7	9.6%
2,501 to 5,000	15	20.6%
1,001 to 2,500	10	13.7%
1,000 or less	21	28.8%

The 23 companies responding to this survey serve a total of 39,880 access lines consisting of 27,923 residential lines and 11,957 business lines. On average, respondents serve 1,551 residential lines and 664 business lines.

### **Competition Engenders Improved Service**

#### *New Services*

In many instances, rural CLEC operations are launched in markets near the parent company's existing ILEC serving areas. Customers in these markets will often proactively request service from the new carrier in order to have access to the modern services not made available by their RBOC. This market reality is seen in the findings below relative to services offered by the rural CLEC that were not offered by the incumbent LEC at time of launch. The following statistics represent the number of respondents that were bringing these services to rural markets for the first time.

Caller ID	39.13%
Other calling features	34.78%
Voice mail	65.22%
Video programming	17.39%

Rural CLECs are also moving forward to bring advanced services to these markets. This is best seen in the percentage of CLECs who are bringing broadband connections to markets for the first time. The findings are:

DSL	82.61%
Cable modems	34.78%

### *New Modern Networks*

In order to provide new services, these rural CLECs are making significant investments in building modern telecommunications networks and customer operations. 79% of the respondents are providing service via overbuild strategies.

Respondents report that they are using the following technologies to deliver services to rural CLEC markets:

Coax	30.43%
Copper	95.65%
Fiber	91.30%
Hybrid Fiber Coax	13.04%
Wireless	17.39%

On average, respondents have made capital investments of \$6,671,667 in their CLEC areas with the 23 companies spending over \$140 million dollars to improve service in rural America.

### *Lower Rates*

76.19% of respondents state that their local business or residential rates are lower than the incumbent. 14.29% report the same rates and only 9.52% report higher rates than the incumbent.

### *New Employment Opportunities*

In addition, an average of 9.5 new jobs are created with an average of 13.73 positions projected in a year. This can be significant in rural markets.

### *Improved Customer Service*

Not only are rural CLECs improving the level of service they are also improving the level of customer service. 73% of respondents have opened a local customer service office in the markets they are serving. Many of those who didn't open a local office responded that they already had a local office open in these markets. At launch, only 18% of the incumbent RBOCs had a local office.

The findings above are consistent with the purpose and intent of the 1996 Telecom Act.

### **A Welcome Reception**

By bringing new services and improved customer service to rural communities, rural CLECs are experiencing significant customer demand. The average penetration rate for respondents is 53.81%. In addition, the survey seems to indicate that satisfaction and demand increases over time. The seven respondents who have been in the business more than 3 years report an average penetration rate of 72.14%

### **Anti-Competitive Behavior**

Unfortunately, not every intent of the 1999 Telecom Act has been realized in these rural markets. 60% of the surveyed rural CLECs are experiencing long distance carriers who have refused service to their CLEC customers. AT&T's widely reported policy of withholding payment from rural CLECs has been the source of great concern by many Independents with CLEC operations. In response, RICA has taken aggressive steps to protect the interests of its rural constituency through a filing for emergency relief and congressional visits.

### **Summary**

This survey confirmed much of the anecdotal evidence concerning rural CLECs. Rural independent telecommunication carriers have made significant investments in markets

that most large companies still deem as undesirable. While RBOC's and GTE (now Verizon) divested of rural properties, and AT&T denies service to customers, rural CLECs continue their efforts to improve the communications opportunities available to these communities. In so doing, their services tend to be in great demand.

However, the rural nature of these communities makes the business case challenging and continued support is needed from legislators and regulators who understand the important role these CLECs play in providing modern communications to rural America.

# RICA Member Survey

## Survey Response by Question

1. What are the number of CLEC access lines served, by class?

<b>Residential</b>	<b>TOTAL</b>	<b>27,923</b>	<b>AVG.</b>	<b>1,551</b>
<b>Business</b>	<b>TOTAL</b>	<b>11,957</b>	<b>AVG.</b>	<b>664</b>

2. What is the CLEC penetration (percent of total lines served by CLEC in service area). If you serve multiple markets, please list the various penetration rates (you do not need to provide the name of the market)?

**AVERAGE PENETRATION RATE= 53.81%**

3. What percentage of your services do you provide service through:

<b>OVERBUILD:</b>	<b>AVG. 79.14%</b>
<b>RESALE:</b>	<b>AVG. 34.33%</b>
<b>UNE's:</b>	<b>AVG. 30.18%</b>

4. How many employees have you hired for your CLEC operation?

<b>TOTAL</b>	<b>190</b>	<b>AVG.</b>	<b>9.50</b>
--------------	------------	-------------	-------------

5. How many do you project to have in your CLEC 12 months from now?

<b>TOTAL</b>	<b>302</b>	<b>AVG.</b>	<b>13.73</b>
--------------	------------	-------------	--------------

6. To date, what is the estimated total capital investment in your CLEC areas?

<b>TOTAL</b>	<b>\$140,105,000</b>	<b>AVG.</b>	<b>\$6,671,667</b>
--------------	----------------------	-------------	--------------------



7. Please mark what technologies you use to deliver services to your CLEC customers:

<b>COAX:</b>	<b>30.43%</b>
<b>COPPER:</b>	<b>95.65%</b>
<b>FIBER:</b>	<b>91.30%</b>
<b>HYBRID FIBER COAX:</b>	<b>13.04%</b>
<b>WIRELESS:</b>	<b>17.39%</b>

8. Please mark any services below, that you offer, that were not offered in the CLEC service areas prior to your launch.

<b>CALLER ID:</b>	<b>39.13%</b>
<b>OTHER CALLING FEATURES:</b>	<b>34.78%</b>
<b>VOICE MAIL:</b>	<b>65.22%</b>
<b>DSL:</b>	<b>82.61%</b>
<b>VIDEO PROGRAMMING:</b>	<b>17.39%</b>
<b>CABLE MODEMS:</b>	<b>34.78%</b>
<b>OTHER</b>	<b>4.35%</b>

9. Please mark the services below that you offer as a CLEC.

<b>INTERNET:</b>	<b>95.65%</b>
<b>CATV:</b>	<b>47.83%</b>
<b>LONG DISTANCE:</b>	<b>95.65%</b>
<b>OTHER:</b>	<b>34.78%</b>

10. For basic business or residential CLEC services, are your local service rates higher, lower or the same as the incumbent's?<sup>1</sup>

<b>HIGHER</b>	<b>9.52%</b>
<b>SAME</b>	<b>14.29%</b>
<b>LOWER</b>	<b>76.19%</b>

11. Are your intrastate access rates higher, lower or the same as the incumbent's?

<b>HIGHER</b>	<b>71.43%</b>
<b>SAME</b>	<b>23.81%</b>
<b>LOWER</b>	<b>4.76%</b>

12. Are your interstate access rates higher, lower or the same as the incumbent's?

<b>HIGHER</b>	<b>80.00%</b>
<b>SAME</b>	<b>20.00%</b>
<b>LOWER</b>	<b>0.00%</b>

13. Do you mirror NECA on your access rates?

<b>YES</b>	<b>71.43%</b>
<b>NO</b>	<b>28.57%</b>

14. Has any IXC (e.g. Sprint or AT&T) refused service to your CLEC customers?

Yes [Go to Question 15] No [Go to Question 16]

<b>YES</b>	<b>60.00%</b>
<b>NO</b>	<b>40.00%</b>

Please describe: **AT&T** **7 times**

---

<sup>1</sup> One company reported a lower local rate but a higher "retail" rate when you add in Extended Area Service and the ELC and SLC charges. This company was listed as lower for this question.

15. Have you taken any collection action?

<b>YES</b>	<b>50.00%</b>
<b>NO</b>	<b>50.00%</b>

16. Are you an ETC in any of your CLEC areas?

Yes [Go to Question 17]      No [Go to Question 18]

<b>YES</b>	<b>36.36%</b>
<b>NO</b>	<b>63.64%</b>

16. Do you receive USF?<sup>2</sup>

<b>YES</b>	<b>14.29%</b>
<b>NO</b>	<b>85.71%</b>

17. Please list the name of company(ies) you are competing with (cable and phone):

**Qwest 7; Verizon 6; Iowa Tel (ex-GTE) 4; Citizens 2; Valor (ex-GTE) 2;  
Sprint 2; Ameritech 1; Arvig Communications 1; Century 1; AT&T 1;  
IONEX 1; SWB 1; Charter 1; McLeod 1; MediaCom 1; Spectra 1; Birch 1;  
Firstel 1; Infotel 1.**

18. Do you provide CLEC services within the city limits only or in the urban and rural areas?<sup>3</sup>

<b>WITHIN CITY LIMITS ONLY?</b>	<b>YES</b>	<b>70.00%</b>	<b>NO</b>	<b>30.00%</b>
<b>URBAN AND RURAL AREA?</b>	<b>YES</b>	<b>71.43%</b>	<b>NO</b>	<b>28.57%</b>

---

<sup>2</sup> 3 companies are in process and report they will before 2001. At that point, the results would be 28.57% Yes and 71.43% No.

<sup>3</sup> The survey responses seem to indicate there was some confusion with the wording of this question.

20. When did you turn up your first customer?

<b>HAVE NOT LAUNCHED:</b>	<b>13.04%</b>
<b>LESS THAN ONE YEAR AGO:</b>	<b>21.74%</b>
<b>ONE TO THREE YEARS AGO:</b>	<b>56.52%</b>
<b>OVER THREE YEARS AGO:</b>	<b>8.70%</b>

21. Did you open a local office or offices in your CLEC markets ?

<b>YES</b>	<b>72.73%</b>
<b>NO</b>	<b>27.27%</b>

22. Does the incumbent LEC have an office in those same markets?

<b>YES</b>	<b>18.18%</b>
<b>NO</b>	<b>81.82%</b>

23. What is the population of the community(ies) you are competing in? (Place a number in each category representing the number of markets that size that you serve).

<b>MORE THAN 10,000:</b>	<b>20</b>
<b>5,001 TO 10,000:</b>	<b>7</b>
<b>2,501 TO 5,000:</b>	<b>15</b>
<b>1,001 TO 2,500:</b>	<b>10</b>
<b>1,000 OR LESS:</b>	<b>21</b>

## About Mid-Rivers...

- Established in 1952, Mid-Rivers Telephone Cooperative, Inc., provides telephone service to 30,000 square miles in a 20-county area of eastern Montana and three counties in North Dakota – the largest land mass telephone cooperative in the Continental U.S.
- We operate over 10,100 route miles of telephone line, and have 12,000 working residential and 3,000 business access lines.
- Headquarters are in Circle, Montana (see map), and we employ 115 people throughout the service area, including two telecommuting employees.
- Developed Montana's first Interactive Television (ITV) network to connect 23 schools for Distance Learning.
- Approximately 1,300 miles of fiber optic cable are currently installed in our service area, and we are continually installing more.
- State-of-the-art EWSD telephone switches in Glendive and Roundup, providing Broadband Frame Relay and ISDN capabilities (voice, video and data transmission simultaneously), along with DSL and cable modem capabilities. All 30 central offices in the cooperative have digital telephone switches for quality voice and data transmission.
- Mid-Rivers Cellular sells cellular telephone equipment and accessories, and operates a cellular telephone switch in Circle with cellular towers at Baker, Cabin Creek, Ekalaka, Jordan, Locust, Richey, Rim Road, Sand Springs and Van Norman (see map).
- Personal Communications Services (PCS) and Local Multi-point Distribution System (LMDS) licenses have been obtained from the Federal Communications Commission (FCC).
- As a cooperative, Mid-Rivers can help your business obtain zero- or low-interest start-up funding through various Federal and State economic development programs.
- For more facts, visit <http://www.midrivers.com/Aboutus/facts.html>



**"It is Mid-Rivers' pledge that Eastern Montana will not lose existing business or the potential to attract new business because of a lack of available broadband services."**

—Gerry Anderson, General Manager

## Why Not Eastern Montana?

**If you are starting a new business or looking to expand an existing one, why not consider locating in Eastern Montana? See what we have to offer...**

- **Infrastructure:** A state-of-the-art Broadband Telecommunications System for high-speed Internet access and information transfer: **LIVE HERE, WORK ANYWHERE.** State transportation infrastructure includes a well-maintained highway system, 4,000 route miles of BNSF railroad, Big Sky Airlines service to six Eastern Montana cities; and 17 public airports in the Mid-Rivers' service area.
- **Quality Workforce:** A workforce with a strong work ethic, superior problem-solving abilities, and the will to succeed. Our workforce characteristics are very similar to that of our neighboring western North Dakota, where the travel company, Rosenbluth International, now has six major offices – they had intended only a temporary office, but found people "so committed and such a valuable resource to the company" that they stayed and expanded.
- **Education:** Montana has the nation's 5th highest percentage of adults who have completed high school. Over 22% have earned a bachelor's degree or higher. Our students have had the 4th highest ACT scores in the nation over the last 5 years. Montana boasts two universities, four colleges, and five vo-tech centers, plus 6 private colleges, 7 tribal colleges, and 3 community colleges (2 of which are right here in Eastern Montana).
- **Lifestyle:** Friendly, welcoming communities with some of the lowest incidences of crime in the U.S., making the prairies of Montana one of the few remaining safe places to raise a family. Your family will also have access to top-rated healthcare with assistance from the Eastern Montana Telemedicine Network. One of the nation's Top 10 Telemedicine Networks, this system uses technology and partners with Mid-Rivers to bring specialty medical services to communities throughout the region.
- **Recreation:** Beautiful scenery & recreation areas, including the Badlands, Yellowstone River, and Missouri River. Go fishing, hunting, boating, hiking, fossil-hunting, and wildlife-watching, follow Lewis & Clark's trail, go horseback-riding on a real working ranch, or go to the near by Fort Peck Theater or Medora Musical for a little culture.

If this sounds like somewhere you and your employees would like to be, please contact Mid-Rivers' own Rural Economic Development Representative, Erin Lutts, for more information. She can be reached at (406) 377-7438, or [elutts@midrivers.com](mailto:elutts@midrivers.com).

Contact Mid-Rivers anytime at 1-800-452-2288, and visit us on the web at <http://www.midrivers.com>.

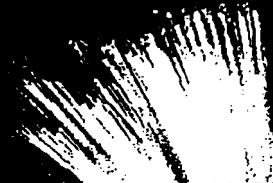
**We look forward to serving you and your business in Eastern Montana.**

# Mid-Rivers

**"Connecting BUSINESSES to the 21<sup>st</sup> Century."**

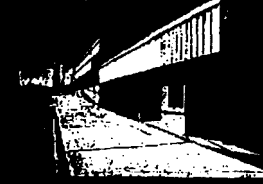


**Mid-Rivers Telephone Cooperative, Inc.**

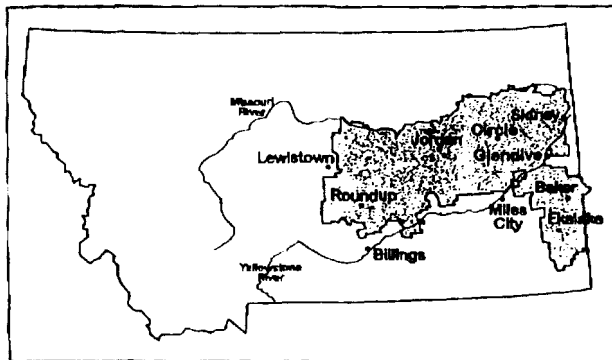


**BRIDGING THE DIGITAL DIVIDE  
IN EASTERN MONTANA  
with State-of-the-Art  
HIGH-SPEED  
BROADBAND TELECOMMUNICATIONS**

DSL (Digital Subscriber Line)  
MEGA Speed Cable Modems  
Interactive Video  
Frame Relay  
ISDN



## Mid-Rivers Service Area



Montana

## Services We Provide

- High-speed Broadband Services:
  - ✓ **DSL (Digital Subscriber Line):** "Always on" service, up to **768K downstream**. Runs over the same telephone line as regular voice traffic. Talk on the phone while surfing the net. Eliminates the need for a second line.
  - ✓ **MEGA Speed Cable Modems:** Runs over the same lines as your Cable TV service. Watch TV and use the Internet simultaneously, also without a second phone line. Speeds up to **1 Megabyte**.
  - ✓ **Frame Relay & ISDN:** High-speed data services ideal for banks, schools, and others with lots of data to move.
  - ✓ *See map for areas of availability on High-Speed Services.*
- Top-quality, reliable local telephone service.
- Dial-up Internet access to 100% of service area.
- Sales and maintenance of business phone systems through Cable & Communications Corporation subsidiary.
- Interactive Video (broadcast quality) for distance learning and business applications.
- Easy-to-understand long distance plans with business discounts, 800 numbers and calling cards available through Mid-Rivers Long Distance.
- 24-hour-a-day, 7-day-a-week Customer Support for all services.

# Mid-Rivers Fiber Network and Availability of Advanced Services

